

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-04-7664.M5

MDR Tracking Number: M5-04-2452-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 4-05-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the outpatient services rendered from 8/05/03 through 9/15/03 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service 8/05/03 through 9/15/03 are denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 22nd day of June 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division
RLC/rlc

NOTICE OF INDEPENDENT REVIEW DECISION

Date: June 1, 2004

MDR Tracking #: M5-04-2452-01

IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic physician reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

According to the supplied documentation, it appears that the claimant injured his low back while lifting a box weighing approximately 50 lbs on _____. The claimant apparently received some care with his employer's medical department. The claimant reported to _____ on 10/01/2002 for evaluation. Plain film x-rays revealed no acute fracture and degenerative changes. Chiropractic therapy was begun. An MRI was performed on 11/01/2002 that revealed disc desiccation with a disc protrusion at L3-4. The claimant was seen by _____ on 11/21/2002 who assessed the claimant with a disc herniation per the MRI report. The claimant underwent a second lumbar MRI on 11/26/2002 that revealed significant lumbar DDD. The report also revealed generalized annular bulging. The claimant continued therapy with a transition to active care. A NCV/EMG study performed on 12/11/2002 revealed a L5 radiculopathy. Therapy and referrals continued. The documentation continued beyond the dates of service in question.

Requested Service(s)

Please review and address the medical necessity of the outpatient services rendered on 08/05/2003, 09/08/2003, 09/10/2003, 09/11/2003 and on 09/15/2003.

Decision

I agree with the insurance carrier that the services rendered were not medically necessary.

Rationale/Basis for Decision

The documentation supplied reveals that the claimant has underwent a large amount of therapy prior to the dates in question. Without significant improvement, the continued care is not seen as reasonable or medically necessary. If conservative therapy were benefiting the claimant's condition, then it would have been accomplished well before the dates in dispute. The claimant reported that his pain was at a 5/10 with episodes of 7/10 on the first date of therapy in question (08/05/2003). This number is very similar to the 7/10 rating the claimant reported on 10/02/2002. With the large amount of therapy rendered between 10/02/2002 – 08/05/2003, no further therapy is seen as beneficial in the claimant's case. The objective documentation does not support any significant amount of improvement over the course of care. Since the therapy had appeared to plateau, then no additional physical therapy is seen as reasonable. According to the **Official Disability Guidelines**, treatment of a lumbar herniation would include chiropractic therapy up to 18 visits over an 8-week period with objective improvement. The claimant was seen far over the amount and length, which should be avoided to potentially cause doctor-dependence.